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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,687	08/16/2001	Lou F. Del Nin		1592

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EXAMINER
BOSWELL, CHRISTOPHER J

ART UNIT	PAPER NUMBER
3676	

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CANADA

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/930,687	DEL NIN, LOU F.	
	Examiner	Art Unit	
	Christopher Boswell	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 October 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-11* is/are rejected.

7)☒ Claim(s) *9* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Claim Objections

Claim 9 is objected to because of the following informalities: claims need to be one sentence. Each claim must begin with a capital letter and end with a period. Periods may not be used elsewhere in the claims except for abbreviations. See MPEP section 608.01 (m) and Fressola v. Manbeck, 36 USPQ2d 1211 (D.D.C. 1995). Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 9-11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 7, and 8 of U.S. Patent No. 5,983,680 to Del Nin in view of U.S. Patent Number 1,203,965 to Bogenberger.

Del Nin discloses the invention substantially as claimed. Del Nin discloses, in combination, a door (10) pivotally mounted, for pivoting about a vertical axis between open and closed positions, in a door opening (18) above a horizontal floor (20), the door having a outer face and an opposed inner face, the door further having a lower edge (60) proximate the floor, and an elongate aperture (38) in the floor adjacent to the door, and a security locking device comprising an elongate bolt (34) secured to the door so as to be slidably mounted parallel to one of the faces, the bolt being extendable into a first engaged position wherein an end portion of the bolt (figure 7) extends outwardly of the lower edge of the door and into the elongate aperture in the floor, the bolt being substantially vertical relative the floor (figure 1), locking means (30) preventing withdrawal of the bolt from the aperture while the door is in an open position , and

releasing means (36) allowing the bolt to be inserted into, and withdrawn from, the aperture while the door is in a closed position, wherein the bolt is moveable in a lengthwise dimension (figures 6 and 9) of the elongate aperture by pivoting movement of the door, thereby permitting the door to be opened by a predetermined amount with the bolt in the first engaged position, the bolt extends outwardly of the inner face of the door and is secured to the inner face of the door by at least one bracket (40) permitting longitudinal sliding of the bolt therethrough;; the locking means comprises: a plate (36) covering the aperture and having an elongate opening (46), a width of the elongate opening being less than the width of the aperture (figure 2), the end portion of the bolt having a diameter greater than the width of the elongate opening in the plate (50), wherein the end portion is received in the elongate aperture when the bolt is in the first engaged position, and an intermediate portion of the bolt (52) adjacent the end portion having a diameter less than the width of the elongate opening in the plate, at least a portion of the intermediate portion of the bolt (figure 7) being in registry with the elongate opening of the plate when the bolt is in the first engaged position, the releasing means comprises an engaged opening in the plate having a width greater than the width of the elongate opening (figure 2) and greater diameter of the end portion of the bolt, the enlarged opening communicating with the elongate opening of the plate and being positioned so that when the door is closed, the end portion of the bolt may be withdrawn from and inserted into said aperture through the enlarged opening in the plate, and wherein a first portion of the aperture, into which the bolt is extendable through the elongate opening in the plate has a depth (figure 11), A second portion of the aperture into which the bolt is extendable through the enlarged opening in the plate has a second depth (figure 11), which is greater than the first depth (figure 8), in the first engaged portion, the bolt extends

into the aperture to a first engaged depth less than or equal to the first depth of the aperture, and in a second engaged position, the bolt extends into the second position of the aperture to a second engaged depth greater than the first depth of the aperture, such that, when the bolt is in the first engaged position, the door is openable by a predetermined amount, and when the bolt is in the second engaged position, the door is closed.

Del Nin also discloses the enlarged opening (48) communicates with an end of the elongate opening closest to the door opening (figure 2), and the door having a first vertical edge connected by a hinge (16) to an edge of the door opening, and a second vertical edge remote from the first vertical edge (figure 1), and where the bolt is raised from the first engaged position and lowered into the first engaged position by a first locking mechanism (30).

Del Nin further discloses the first locking mechanism being connected to an upper end of the bolt by a gear mechanism (figure 12). Del Nin additionally discloses the bolt is raised from the second engaged position to the first engaged position, and lowered from the first engaged position to the second engaged position, by a locking mechanism (30). However, Del Nin does not disclose the gear mechanism comprises a latch mounted on one gear, where the first gear meshes with any number of other gears, upon which of the other gears is mounted a protruding bolthead or other part traveling through an aperture of a latch, which is in turn connected to the bolt. Bogenberger teaches the use of a bolthead (15) mounted upon a gear mechanism (figure 3) for traveling trough an aperture of a latch (14), which is in turn connected to a vertical bolt in the same field of endeavor for the purpose of minimizing the size of the lock-box attached to the door for housing the locking mechanism. It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate a bolthead on to a gear (78) of Del

Nin with the exposed end protruding through an aperture so as to cooperate with the bolt in order to minimize the size of the lock-box attached to the door for housing the locking mechanism.

Del Nin also discloses the bolt containing a knob (86) protruding through a latch (88), and which arrangement provides means for adjusting height of the bolt and its consequent degree of penetration into any aperture (figures 14 and 15) when the gears are caused to turn, as in claim 10.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Nin in view of Bogenberger.

Del Nin discloses the invention substantially as claimed. Del Nin discloses, in combination, a door (10) pivotally mounted, for pivoting about a vertical axis between open and closed positions, in a door opening (18) above a horizontal floor (20), the door having a outer face and an opposed inner face, the door further having a lower edge (60) proximate the floor, and an elongate aperture (38) in the floor adjacent to the door, and a security locking device comprising an elongate bolt (34) secured to the door so as to be slidably mounted parallel to one of the faces, the bolt being extendable into a first engaged position wherein an end portion of the bolt (figure 7) extends outwardly of the lower edge of the door and into the elongate aperture in

the floor, the bolt being substantially vertical relative the floor (figure 1), locking means (30) preventing withdrawal of the bolt from the aperture while the door is in an open position , and releasing means (36) allowing the bolt to be inserted into, and withdrawn from, the aperture while the door is in a closed position, wherein the bolt is moveable in a lengthwise dimension (figures 6 and 9) of the elongate aperture by pivoting movement of the door, thereby permitting the door to be opened by a predetermined amount with the bolt in the first engaged position, the bolt extends outwardly of the inner face of the door and is secured to the inner face of the door by at least one bracket (40) permitting longitudinal sliding of the bolt therethrough;; the locking means comprises: a plate (36) covering the aperture and having an elongate opening (46), a width of the elongate opening being less than the width of the aperture (figure 2), the end portion of the bolt having a diameter greater than the width of the elongate opening in the plate (50), wherein the end portion is received in the elongate aperture when the bolt is in the first engaged position, and an intermediate portion of the bolt (52) adjacent the end portion having a diameter less than the width of the elongate opening in the plate, at least a portion of the intermediate portion of the bolt (figure 7) being in registry with the elongate opening of the plate when the bolt is in the first engaged position, the releasing means comprises an engaged opening in the plate having a width greater than the width of the elongate opening (figure 2) and greater diameter of the end portion of the bolt, the enlarged opening communicating with the elongate opening of the plate and being positioned so that when the door is closed, the end portion of the bolt may be withdrawn from and inserted into said aperture through the enlarged opening in the plate, and wherein a first portion of the aperture, into which the bolt is extendable through the elongate opening in the plate has a depth (figure 11), A second portion of the aperture into

which the bolt is extendable through the enlarged opening in the plate has a second depth (figure 11), which is greater than the first depth (figure 8), in the first engaged portion, the bolt extends into the aperture to a first engaged depth less than or equal to the first depth of the aperture, and in a second engaged position, the bolt extends into the second position of the aperture to a second engaged depth greater than the first depth of the aperture, such that, when the bolt is in the first engaged position, the door is openable by a predetermined amount, and when the bolt is in the second engaged position, the door is closed.

Del Nin also discloses the enlarged opening (48) communicates with an end of the elongate opening closest to the door opening (figure 2), and the door having a first vertical edge connected by a hinge (16) to an edge of the door opening, and a second vertical edge remote from the first vertical edge (figure 1), and where the bolt is raised from the first engaged position and lowered into the first engaged position by a first locking mechanism (30).

Del Nin further discloses the first locking mechanism being connected to an upper end of the bolt by a gear mechanism (figure 12). Del Nin additionally discloses the bolt is raised from the second engaged position to the first engaged position, and lowered from the first engaged position to the second engaged position, by a locking mechanism (30). However, Del Nin does not disclose the gear mechanism comprises a latch mounted on one gear, where the first gear meshes with any number of other gears, upon which of the other gears is mounted a protruding bolthead or other part traveling through an aperture of a latch, which is in turn connected to the bolt. Bogenberger teaches the use of a bolthead (15) mounted upon a gear mechanism (figure 3) for traveling trough an aperture of a latch (14), which is in turn connected to a vertical bolt in the same field of endeavor for the purpose of minimizing the size of the lock-box attached to the

door for housing the locking mechanism. It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate a bolthead on to a gear (78) of Del Nin with the exposed end protruding through an aperture so as to cooperate with the bolt in order to minimize the size of the lock-box attached to the door for housing the locking mechanism.

Del Nin also discloses the bolt containing a knob (86) protruding through a latch (88), and which arrangement provides means for adjusting height of the bolt and its consequent degree of penetration into any aperture (figures 14 and 15) when the gears are caused to turn, as in claim 10.

Response to Arguments

Applicant's arguments filed October 7, 2003 have been fully considered but they are not persuasive. The examiner advances that Del Nin discloses the recited features of the aperture in which the applicant claims is not taught by Bogenberger. Bogenberger is used as a teaching reference to teach the use of a bolthead (15) mounted upon a gear mechanism (figure 3) for traveling trough an aperture of a latch (14), which is in turn connected to a vertical bolt. Where Del Nin and Bogenberger are analogous art in the same field of endeavor as the current application.

Additionally, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge

gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Furthermore, the applicant's arguments on page 3 are non-persuasive due to the fact they demonstrate the intended use of the current invention and fail to disclose the structural differences as the applied references used in the examiner's rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (703) 305-4067. The examiner can normally be reached on 8:30 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJB
June 21, 2004

John B. Walsh
Primary Examiner
AU 3676